

INITIATIVE 242

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 242 to the Legislature is a true and correct copy as it was received by this office.

1 **AN ACT relating to the Office of State Inspector General;** adding a new
2 chapter to Title 43 RCW; reenacting and amending RCW 43.17.010;
3 amending RCW 43.17.020; and adding a new section to chapter 41.06 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **NEW SECTION. Sec. 1. Purpose-** It is the purpose of this chapter to
6 create a new oversight agency to improve efficiency and accountability,
7 and promote honesty, ethics and integrity in societal practices. This
8 agency is meant to fill a void in the society by resolving problems and
9 eliminating the need for court litigation over every instance of victim
10 abuse, and by helping to instill conscientious and ethical attitudes,
11 actions and practices in all sectors of society.

12 **NEW SECTION. Sec. 2. Duties-** The Office of State Inspector General
13 shall be required to investigate and resolve complaints of governmental
14 neglect or abuse, and to facilitate or enforce fair and ethical
15 practices in all sectors of society.

1 **NEW SECTION.** Section 3. **Definitions-** Unless the context clearly
2 requires otherwise, the definitions in this section shall apply
3 throughout this chapter:

4 (1) "Office" or "agency" or "agency" refers to the Office of State
5 Inspector General;

6 (2) "Lay individual" means anyone not affiliated with the bar, or
7 governmental legislative or enforcement entities;

8 (3) "General public" means anyone not connected with this agency.

9 (4) "Unwary or helpless individuals" means those being cheated,
10 abused, bullied or exploited, or those whose lives or property are in
11 jeopardy of unfair or unjustifiable disruption;

12 (5) "Fair and ethical practices" means that which does not fool,
13 cheat nor injury others;

14 (6) "Fairness and common sense" means that which reasonable minds
15 would likely concur and agree;

16 (7) Reasonable minds" means fair, impartial and benevolent.

17 **NEW SECTION.** Section 4. **Vestment of Powers-** (1) There is created a
18 new oversight agency in state government to be known as the Office of
19 State Inspector General, to help monitor and enforce honesty and
20 ethics, and improve oversight, efficiency and accountability in
21 societal practices. (2) The agency is vested with such powers and
22 responsibilities as are authorized by law, and the Legislature shall
23 from time to time review agency structures and procedures towards
24 improving operational effectiveness. (3) Any proposed legislative
25 amendments to these provisions shall be submitted for public review and
26 comment, and any court challenges to such amendments shall be filed
27 within 30 days of such notification. (4) The agency shall be
28 represented in any such challenges by conscientious and responsible
29 members of the Attorney General staff who shall not be focused on
30 prevailing in actions *per se*, as much as promoting principles of
31 justice and fair play.

32 **NEW SECTION.** Section 5. **Independence of Agency-** (1) It is intended
33 that the Office of State Inspector General, a civilian post, shall be
34 a People's Advocate in guarding against fraud or abuse from any
35 quarter. Recognizing that maintaining the independence and integrity
36 of this agency is critical, it shall remain independent of any social,
37 political or economic interests, and care shall be taken to prevent

1 undue influence over this agency by governmental entities, or any other
2 vested interests who themselves might be subject to scrutiny by this
3 agency. (2) In maintaining it's purely objective, impartial and
4 benevolent mission, under no circumstances shall this agency exercise
5 any direct police powers over the general public, and nor shall it
6 serve as a vanguard for any particular social, capital or political
7 interests or agendas.

8 **NEW SECTION. Section 6. Funding-** (1) The Office of State Inspector
9 General shall be financed by (a) the State General fund; (b) by any
10 federal grants for which it qualifies, and (c) any gifts, grants or
11 endowments it receives from public or private entities. (2) The Office
12 shall be authorized to purchase facilities, equipment and supplies in
13 the conducting of it's business, and to enter into contracts with
14 public or private entities for studies or other services. (3) The
15 Office shall undergo a complete annual audit, and shall publish an
16 annual report summarizing it's activities. (4) All files and reports
17 of this agency shall be available for public review, *Provided* that (a)
18 portions of files deemed confidential for good and justifiable cause
19 may be withheld from general perusal, as well as materials deemed
20 classified for military purposes, and (b) whereas government may
21 provide freedoms of speech/press for purposes of redress of grievance
22 against government abuse without fear of reprisals from government,
23 government has *no right* to give such organisms free reign to harm or
24 injure anyone else at whim. Accordingly, this agency shall not allow
25 informations from it's files to be used by the power of the commercial
26 media to effectually defame, embarrass or damage anyone else by name.

27 **NEW SECTION. Section 7. Oversight by Executive Committee-** (1) An
28 Executive Committee shall be established to oversee agency operations,
29 to approve executive appointments within the agency, and to accept
30 reconsideration appeals from agency decisions. (2) The Executive
31 Committee shall be comprised of six members, the majority of whom shall
32 be lay individuals, and the Legislature shall determine the manner in
33 which such members are to be selected and installed, and their terms,
34 so as best to assure integrity and continuity of mission.

1 **NEW SECTION. Section 8. Directorship-** (1) The administrative head of
2 the agency shall be the Director, who shall be responsible for all
3 official acts by personnel under his direction.

4 (2) The Director shall be elected at large for a maximum of one four-
5 year term. Applicants wishing to stand for election to the position of
6 Director shall undergo screening and civil service examinations to
7 ascertain that they qualify to run for election, and the public shall
8 be afforded an opportunity to provide personal knowledge or comments
9 upon their qualifications. Thereafter, the Executive Committee shall
10 issue a determination of fitness to run for election to this office.
11 Applicants to the position of Director shall file their intent to run
12 one year before the next election period. (3) The Director shall be
13 paid a salary in accordance with RCW 43.03.040. (4) Exercising
14 supervisory responsibilities over the agency, the Director may employ
15 such assistants and personnel as are deemed necessary for the general
16 administration of the Office, after consulting with and obtaining the
17 approval of the Executive Committee. The Director shall appoint a
18 deputy director, an office personnel director, and such other assistant
19 or division directors as may be needed to administer the office.
20 This employment shall be in accordance with State Civil Service law,
21 Chapter 41.06, except as otherwise provided. (5) The deputy director
22 shall have charge and general supervision over the office in the
23 absence or disability of the Director, and in case of vacancy in the
24 office, the deputy director shall continue in charge of the Office
25 until a successor is qualified and appointed. (6) The Director may be
26 dismissed for good cause by (a) a recall of the electorate by petition
27 process, (b) an act of the Legislature, or (c) a criminal action
28 instituted by the Attorney General.

29 **NEW SECTION. Section 9. Consulting Committees-** (1) The Office may
30 appoint state-wide committees or councils on such matters as come
31 within the Office's responsibilities. Such committees or councils
32 shall have substantial consumer representation, and may be paid travel
33 expenses in accordance with RCW 43.03.050 and RCW 43.03.060. (2) The
34 Office may also appoint masters to monitor and report on progress in
35 particular areas or venues. Such masters shall be paid fair and
36 reasonable expenses. (3) The Office may also appoint such committees
37 or councils as may be required as a condition to receipt of federal
38 funds for the Office.

1 **NEW SECTION.** Section 10. **Volunteers-** The Director may enlist the
2 assistance of qualified volunteers from the public sector, as provided
3 by State Internship codes, *Provided* that those applying as volunteers
4 with this agency, be they law students, police cadets, or any others,
5 shall undergo the same rigorous screening and qualifying examination as
6 those appointed to full-time staff.

7 **NEW SECTION.** Section 11. **Grounds for Removal-** (1) Recognizing that
8 a cross section of the populace would likely yield a certain percentage
9 of individuals who are abusive, devious or dishonest, or otherwise
10 unbalanced, dysfunctional or potentially dangerous in their dealings
11 with the public, all perspective personnel in this agency shall undergo
12 intelligence and psychological testing to ascertain basic sanity,
13 reasoning powers and moral stability, and to discern any personal
14 biases or agendas they might harbour. (2) All appointments within this
15 agency shall be with an eye to integrity and dedication, rather than to
16 filling any racial or sexist schemes or quota systems. (3) To maintain
17 a stable and reliable workforce, periodic counseling shall be available
18 for personnel who may be experiencing difficulties in their personal
19 lives, and temporary reassignment to less taxing decision-making duties
20 should be available for those who may be having difficulty coping. (4)
21 The agency shall have procedures for reviewing complaints of abuse or
22 remiss by agency personnel, or any unreasonable or malevolent
23 attitudes. A Board of Supervisors shall be established to advise
24 personnel, randomly examine files, and otherwise assure that cases are
25 being handled in a proper, professional, and timely manner. (5) Any
26 neglect, abuse, or betrayal of the public trust shall be grounds for
27 immediate suspension or dismissal per state personnel processes, and/or
28 criminal prosecution under RCW 43.01.125, or any other applicable
29 statutes. (6) Personnel at any level may be subject to recall by an
30 informed electorate, *Provided*, that pursuant to Constitutional
31 provisions against reckless or irresponsible speech, any reports which
32 appear misleading, malicious or libelous, or designed to merely harass
33 or intimidate any personnel of this agency, may be viewed as form of
34 media assault, and this agency may seek equal time and space to rebut
35 unfounded allegations.

36 **NEW SECTION.** Section 12. **Authority to Conduct Hearings-** (1) While
37 efforts shall be made to resolve complaints quickly and amicably, this

1 agency shall have authority to gather evaluate and decide facts through
2 a hearings process. The agency shall have authority to issue
3 subpoenas, convene and conduct hearings, take testimony and exhibits,
4 and issue Findings of Fact and Decision. (2) A Hearing Examiner shall
5 be appointed to preside over hearings, and issue Findings of Fact and
6 Decision. Hearings Examiners appointed may, but need not be, personnel
7 of this agency, nor necessarily lawyers. (3) The Office shall
8 determine the time, manner, locale and format of any particular
9 hearing, and hearings shall be convened at a location convenient to the
10 parties, whenever practical. Municipalities may be requested to
11 provide hearing facilities, if needed. (4) A Hearings Handbook shall
12 be provided to all parties, and hearing rules shall be simple and
13 concise, easily understood and applied by anyone, and devoid of legal
14 jargon or obscure legal principles designed to confound the public.
15 (5) The agency may appoint volunteer personnel to assist mute,
16 inarticulate or non-lingual individuals. (7) Court reporters may be
17 present to transcribe proceedings, but in all cases hearings shall be
18 carefully audio or video recorded to assure completely accurate
19 transcripts of proceedings. (8) Hearings shall be convened within 60
20 days of a complaints' receipt, and shall be decided within 60 days
21 thereafter, unless continued for good cause. Any case unresolved
22 within that period may be remanded to an office of special counsel for
23 further proceedings, or court action. The reasons for such delay shall
24 be specified. (9) All decisions by this agency shall be based strictly
25 on fairness and common sense, as might be reached by any reasonable
26 minds, and shall be decided on a case-by-case basis, rather than on any
27 precedent. All agency decisions shall include a full explanation of
28 the facts and basis of the decision. (10) In those rare instances
29 where a completely fair and just decision is difficult based on the
30 facts or circumstances, the Hearing Examiner shall state the facts and
31 basis for such, and the case may be remanded to a panel for a
32 compromise decision. (11) The 'adversarial' system of justice at play
33 at most court settings appears to allow lawyers to lie, misrepresent
34 facts or factors, or otherwise harm innocent parties whenever
35 convenient to prevail. Such practices shall not be tolerated by this
36 agency. Anyone whomsoever found to be lying, falsifying or
37 misrepresenting any fact or issue before a hearing by this agency shall
38 be remanded for prosecution by the Attorney General for perjury, or
39 felonious deception.

1 **NEW SECTION.** Section 13. **Filing Complaints-** (1) Complaints filed
2 with this agency shall be submitted in writing, and the agency may
3 require a Sworn Affidavit from complainants attesting to the accuracy
4 and truthfulness of their allegations, for hearings to proceed. (2)
5 The agency may, at it's discretion, accept anonymous complaints, when
6 filing a complaint is deemed to be awkward, or possibly dangerous, to
7 complainants in their circumstances. (3) It being conceivable that
8 frivolous, deceitful or malicious complaints might be filed by petty,
9 spiteful or troublesome individuals merely for the sake of harassment
10 or obstruction, this agency may require doubtful or suspect
11 complainants to post a bond or volunteer to a polygraph examination,
12 for hearings to convene. (4) It shall be unlawful for anyone to
13 retaliate against any complainant filing a grievance with this agency,
14 but by the same token, obviously frivolous complaints shall be
15 prosecutable under harassment statutes.

16 **NEW SECTION.** Section 14. **Appeals-** (1) Any appeals for
17 reconsideration from a decision by this agency shall be directed to an
18 Executive Committee Review Board, which may amend a decision in the
19 interest of fairness. (2) Appeals for reconsideration from a Hearing
20 Examiner's decision shall be filed with the Review Board within 20
21 days, and a final and formal decision shall be issued by the Review
22 Board within 30 days. The agency may thereafter proceed to the
23 District Court for any necessary orders or injunctions. (3) An appeal
24 of any fines or injunctions ordered by the District Court may be filed
25 by parties to the Superior Court, *Provided* that (a) appellants post any
26 required bond pertinent to filing such appeals, (b) any injunctions or
27 fines secured by District Court order shall remain in effect during the
28 appeal process, and until amended on review. (3) Should the federal
29 government subsequently establish a Federal Judge Advocate agency
30 specific to such appeals from this agency's decisions, appeals will
31 thenupon be directed to that agency.

32 **NEW SECTION.** Section 15. **Authority to Rectify Wrongdoing-** (1) The
33 Office shall have authority to rectify wrongdoings or deficiencies
34 harmful or disruptive to innocent, helpless or unwary parties, and may
35 do any of the following to resolve cases satisfactorily: (a) issue
36 cease and desist warnings, (b) require some form of corrective action
37 or restitution, or (c) bring an action in court towards working with

1 other agencies to compel adherence, or issue fines for wrongdoing, from
2 any wilful disregard of it's findings. (2) The agency shall have
3 authority to seek fines at court for wrongdoing in amounts of up to
4 \$10. per day against individuals, \$100. per day against businesses or
5 those acting on behalf of businesses, and amounts over \$1,000. per day
6 against governmental entities. (3) In cases of unpaid fines, the
7 Office may aply at court for liens against the personal or business
8 property of intentional violators, or liens converted to judgments
9 against the wages of future earnings of wrongdoers. (4) This agency
10 shall work with the courts in securing judgments to enforce decisions
11 if necessary, or for injunctions against unfair, abusive or fraudulent
12 practices. Court actions by this agency shall be at the District Court
13 level where applicable, and any court actions by or pertinent to a case
14 involving this agency shall take precedence over all other cases, and
15 be decided promptly. (5) While not intended to levy entire damage
16 awards or criminal penalties for negligent or intentionally injurious
17 practices as might be ascertained through civil or criminal proceedings
18 in a court of law, the agency shall support injured parties against
19 obdurate parties in subsequent court proceedings.

20 **NEW SECTION. Section 16. Authority to Intercede Upon or Revise Agency**
21 **Actions or Decisions-** (1) The Office of State Inspector General shall
22 be authorized and may review complaints of any governmental, agency or
23 departmental act or decision deemed to be unfair, harmful or unjust.
24 Where life or property are in imminent jeopardy of unfair or
25 unjustifiable disruption, this agency shall have authority to suspend
26 any departmental order, pending review by this agency; and thereafter
27 to amend any action deemed to be petty, overly burdensome or cruel.
28 (2) The agency may decline cases for insufficient basis, or as not
29 being within the scope of their responsibilities. The agency may
30 review policies, practices and procedures within corrections or
31 military facilities that are deemed to be other than normal and
32 reasonable processes designed to maintain order and discipline in those
33 facilities. (3) This agency shall have prompt and ready access to all
34 public offices, facilities and records, and public employee cooperation
35 with this agency shall be mandatory. (4) In cases of alleged
36 misconduct or malfeasance by executive or legislative officials, the
37 Office shall have authority to submit prima facie evidence to a
38 judicial panel convened for the purpose, and investigations shall

1 proceed upon warrant of probable cause. (5) While having authority to
2 censure, fine, suspend or recommend the firing of public employees for
3 neglect, malfeasance or abuse, this range shall not extend to federal
4 personnel operating in the state, except to notify appropriate federal
5 agencies of findings. If violative actions persist after such
6 notification, the agency may institute suit against the appropriate
7 federal agency, either on it's own behalf or with the assistance of the
8 Attorney General, to halt or curtail such practices.

9 **NEW SECTION. Section 17. Judicial Performance Not Exempt from Review-**

10 (1) A reliable judiciary is crucial to a democracy which serves it's
11 people, and Americans have a right to demand that justice be mandatory
12 in American courts. Judges are not meant to be tyrants beyond
13 reproach, and the 'independence' of judges does not imply that they
14 should be unaccountable from ineptness, crimes or abuses from the
15 bench. As abuse of judicial office is unacceptable and akin to fraud,
16 judicial performance shall not be exempt from review by this agency.
17 (2) As this agency is responsible for ensuring honesty, ethics and
18 accountable in all sectors of the society, the Legislature shall confer
19 part of it oversight authorities upon this agency, and develop such
20 means by which this agency can review and challenge any court action or
21 decision deemed to be arbitrary, abusive, or contrary to facts and law.
22 (3) To facilitate review of court cases, this agency may enlist the
23 assistance of volunteer review personnel, including shut-ins from the
24 public sector, such as the elderly, inform or incarcerated, who are
25 otherwise competent and qualified. (4) In the course of time, the
26 Legislature may establish processes to reactivate cases reflecting
27 other than fairness and common sense, and the Office shall work through
28 the courts to revise, amend or overturn unjust decisions. (5) Judges
29 shall be required to explain the full basis of their decisions upon
30 inquiries by this agency, and any certifiable findings of judicial
31 neglect or abuse, such as (a) arbitrary, unjust or baseless rulings,
32 (b) bias or favoritism constituting obstruction of justice, (c)
33 deliberate evasion or misconstruance of facts leading to decisions
34 reflecting other than fairness and common sense, or (d) chronic bad
35 decisions requiring appeal, shall be reported to appropriate venues
36 with recommendations for reprimand or censure. (6) Should it
37 subsequently be devised that a Sentencing Authority will assign
38 defendants to a particular corrections facilities, rather than judges

1 or prosecutors who are less expert at corrections, this agency shall
2 assist in examining facts or factors towards best placement, from the
3 standpoint of safety and rehabilitation in those facilities.

4 **NEW SECTION.** Section 18. **Proposed Legislation by Agency to Correct**
5 **Dangerous and Wide-Spread Violations-** (1) To maintain it's impartial
6 viewpoint, this agency is not intended to act as a vangurad for any
7 particular social causes. However, it can and should act to protect
8 against wide-spread fraud or dangerous conditions it finds in the
9 course of it's work. To this extent it could, at it's own discretion,
10 forward proposed legislations towards preventing abuses. (2) The
11 public shall be notified of any legislations proposed by this agency,
12 and be afforded an opportunity to register any views on them, or
13 challenge such proposed legislations in state court during the review
14 period. (3) To keep tabs on what elected officials are doing in
15 office, should it subsequently be required by law that any governing or
16 legislative bodies must first present proposed legislations that effect
17 the public to this Office to ascertain Constitutional muster before
18 they are voted on, this agency may publish a commentary on how such
19 proposed legislations benefit, or fail to benefit, the public. (5)
20 Unreasonable or impossible laws being unenforceable in court, the
21 Office may launch court challenges to any bad laws it finds in place.

22 **NEW SECTION.** Section 19. **Competency Tests, Performance Bonds-** (1)
23 Should it subsequently be required by law that all public employees
24 dealing with or affecting the public must carry a performance bond
25 against intentional violations or misconduct that harms the public,
26 this agency may conduct investigations to determine culpability and
27 extent of injury, and shall thenupon assist injured parties in any
28 court action to order recovery or restitution from the bond surety.
29 (2) And should it subsequently be required by law that prosepctive
30 voters or jurors should undergo intelligence and psychological testing
31 to ascertain basic sanity, reasoning powers, and any personal biases
32 they harbour, this agency shall assist in conducting such tests,
33 compiling results, and disseminating recommendations.

34 **NEW SECTION.** Sec. 20. **Effectiveness** The legislature shall take up
35 consideration of those processes and provisions necessary to bring this

1 agency to operation, and it shall become fully operational within
2 eighteen months of it's enactment.

3 **NEW SECTION** Sec. 21. RCW 43.17.010 and 1993 SP.S. C 2 S 16, 1993 C
4 472 S 17, and 1993C 280 S 18 are each reenacted and amended to read as
5 follows: There shall be departments of the state government which
6 shall be known as (1) the department of social and health services, (2)
7 the department of ecology, (3) the department of labor and industries,
8 (4) the department of agriculture, (5) the department of fish and
9 wildlife, (6) the department of transportation, (7) the department of
10 licensing, (8) the department of general administration, (9) the
11 department of community trade, and community development, (10) the
12 department of veterans affairs, (11) the department of revenue, (12)
13 the department of retirement systems, (13) the department of
14 corrections, (14) the department of health, ((and)) (15) the department
15 of financial institutions, which shall be charged with the execution,
16 enforcement, and administration of such laws, and invested with such
17 powers and required to perform such duties, as the legislature may
18 provide, **and (16) the office of state inspector general.**

19 **NEW SECTION.** Sec. 22. RCW 43.17.020 and 1995 1st SP.S. C 2 S 2
20 (Referendum Bill No. 45 are each amended to read as follows: There
21 shall be a chief executive officer of each department to be known as:
22 (1) the secretary of social and health services, (2) the director of
23 ecology, (3) the director of labor and industries, (4) the director of
24 agriculture, (5) the director of fish and wildlife, (6) the secretary
25 of transportation, (7) the director of licensing, (8) the director of
26 general administration, (9) the director of community trade, and
27 community development, (10) the director of veterans affairs, (11) the
28 director of revenue, (12) the director of retirement systems, (13) the
29 secretary of corrections, (14) the secretary of health, ((and)) (15)
30 the director of financial institutions, **and (16) the director of the**
31 **office of state inspector general.**

32 Such officers, except the secretary of transportation, the director
33 of fish and wildlife, [and the director of the office of state
34 inspector general,] shall be appointed by the Governor, with the
35 consent of the Senate, and hold office at the pleasure of the Governor.
36 The secretary of transportation shall be appointed by the
37 transportation commission as prescribed by RCW 47.01.041. The director

1 of fish and wildlife shall be appointed by the fish and wildlife
2 commission as prescribed by RCW 77.04.055. **And the director of the**
3 **office of state inspector general would be elected at large in special**
4 **and general elections, per applicable statutes.**

5 **NEW SECTION.** Sec. 23. Sections 1 through 19 of this act shall
6 constitute a new chapter in Title 43 RCW.

7 **NEW SECTION.** Sec. 24. **Severability-** Should any section, subsection,
8 paragraph, clause, phrase, sentence or word of this act be declared
9 unconstitutional or invalid for any reason, such decision shall not
10 effect the validity or enactment of the remaining portions of the
11 chapter.